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FILED

JUL - 3 2007

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DEMETRIUS L. HARVEY,

No. C07-01681 MJJ

Plaintiff,

ORDER TO SHOW CAUSE

v.

CITY OF OAKLAND,

Defendant.

On June 22, 2007, this Court issued an Order to Show Cause¹ to Plaintiff Demetrius L. Harvey to explain why he failed to respond to Defendant's Motion to Dismiss and Motion for More Definite Statement.² The Court gave Plaintiff until June 28, 2007 to show cause. On June 29, 2007, Plaintiff responded by letter stating his present incarceration prevents him from properly researching the issues. Plaintiff also requests the Court grant a forty five (45) day extension to allow him to amend his complaint.

The Court finds Plaintiff's response deficient. Plaintiff does not set forth sufficient facts as to the location or duration of his current confinement that would account for his inability to file an opposition or respond to the Court's order in a timely fashion.³ Plaintiff also has not adequately

¹Docket No. 17.

²Docket No. 16.

³Nor does Plaintiff provide a sufficiently detailed explanation as to the reasons why 45 days, in particular, are necessary for him to amend his complaint.

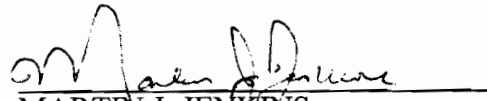
1 identified any policies of the institution of his confinement that prevent him from conducting
2 necessary research. Because Plaintiff provides only a speculative basis for his failure to respond, the
3 Court finds the request for 45 days unwarranted.

4 Nevertheless, Plaintiff is hereby **ORDERED** to either: (1) file an opposition; (2) file a
5 statement of non-opposition; or (3) file an amended complaint by **July 13, 2007**. Defendant may file
6 a reply one week after Plaintiff's response to this order. Plaintiff's failure to respond to this order
7 can result in the imposition of sanctions, which may include granting the motion.

8 This motion is currently scheduled for a hearing on July 10, 2007. That hearing is hereby
9 **VACATED**.

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14 **IT IS SO ORDERED.**

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17 Dated: June 29, 2007


MARTIN J. JENKINS
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

DEMETRIUS L. HARVEY,
Plaintiff,

Case Number: CV07-01681 MJJ

CERTIFICATE OF SERVICE

v.

CITY OF OAKLAND et al,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 3, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Demetrius Harvey
360 So Helm Avenue
Fresno, CA 93727

Rachel Wagner
Office of the City Attorney, Oakland
One Frank H. Ogawa Plaza, 6th Floor
Oakland, CA 94612

Dated: July 3, 2007



Richard W. Wieking, Clerk
By: Edward Butler, Deputy Clerk